

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO.

FRANCOISE H. THOMPSON,

Plaintiff,

vs.

MARGARITA IBANEZ DE SENDADIANO,

Defendant.

C O M P L A I N T

COMES NOW, the Plaintiff, FRANCOISE H. THOMPSON, by and through her undersigned attorneys, and hereby sues the Defendant, MARGARITA IBANEZ DE SENDADIANO, and alleges:

1. Plaintiff, FRANCOISE H. THOMPSON (hereinafter referred to as "Plaintiff"), was an employee of Defendant, MARGARITA IBANEZ DE SENDADIANO, and brings this action on behalf of herself and other employees and former employees of Defendants similarly situated to her for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b). Plaintiff performed manual and other nonexempt duties and related activities in Broward County, Florida.

2. Defendant, MARGARITA IBANEZ DE SENDADIANO, is sui juris and a resident of Miami-Dade County, Florida.

3. At all times material hereto, Plaintiff was and is a resident of Miami-Dade County, Florida.

4. Defendant hired Plaintiff, who is a certified nursing assistant, to perform the following tasks:

- a. prepare three meals a day;
- b. clean all dishes;
- c. bathe her parents Antonio de Sendadiano and Betty de Sendadiano;
- d. administer medications;
- e. assist with toileting;
- f. clean the house, sweep and mop the house;
- g. change bed sheets;
- h. launder clothes;
- i. assist with makeup on Betty de Sendadiano;
- j. change clothes of both Antonio de Sendadiano and Betty de Sendadiano;
- k. play games with both Antonio de Sendadiano and Betty de Sendadiano; and
- l. maintain and water plants and trees inside and outside of residence.

5. At all times material hereto, Defendant, MARGARITA IBANEZ DE SENDADIANO, was granted power of attorney of the person and property of both of her parents Antonio de Sendadiano and Betty de Sendadiano and Defendant regularly exercised the authority to hire and fire employees, determine the work schedules of employees, set the rate of pay of employees, and/or control the finances and operations of her aforementioned parents and did, in fact, direct all work activities of Plaintiff. By virtue of such control and authority, Defendant MARGARITA IBANEZ DE SENDADIANO, is an employer as such term is defined by the FLSA, 29 U.S.C. §§ 201, et seq.

6. This action is brought to recover from Defendant overtime compensation, liquidated damages, and the costs and reasonable attorney's fees under the provisions of Title 29 U.S.C. § 216(b) (hereinafter referred to as the "Act").

7. Jurisdiction is conferred on this Court by 28 U.S.C. § 1337 and by 29 U.S.C. § 216(b).

8. Plaintiff's employment with Defendant, MARGARITA IBANEZ DE SENDADIANO, provided for compensation at the rate of \$1,000.00 per week. Plaintiff regularly worked 52 plus hours per week during the initial five months of her employment with Defendant. In the final eight weeks of her employment with Defendant, Plaintiff worked 76 hours per week. Defendant's violations include failure to pay Plaintiff time and one half wages for hours worked in excess of forty (40) within a workweek.

**COUNT I: LIABILITY AGAINST
MARGARITA IBANEZ DE SENDADIANO, INDIVIDUALLY**

9. Plaintiff realleges each and every allegation contained in Paragraphs 1 through 8, above, as if same were more fully set forth herein.

10. Plaintiff is entitled to be paid time and one-half of her regular rate of pay for each hour worked in excess of forty (40) hours per week during her employment with Defendant within the three (3) year statute of limitations period between approximately September 1, 2021 and February 11, 2022.

11. Defendant knowingly and willfully failed to pay Plaintiff at time and one-half of her regular rate of pay for all hours worked in excess of forty (40) hours per week.

12. By reason of the said intentional, willful, and unlawful acts of the Defendant, the Plaintiff has suffered damages plus she has incurred costs and reasonable attorney's fees.

13. As a result of Defendant's willful violations of the Act, the Plaintiff is entitled to liquidated damages.

14. Plaintiff has retained the undersigned counsel to represent her in this action, and pursuant to 29 U.S.C. § 216(b), Plaintiff is entitled to recover all reasonable attorney's fees and costs incurred in this action from the Defendant.

WHEREFORE, Plaintiff, FRANCOISE H. THOMPSON, demands judgment against the Defendant, MARGARITA IBANEZ DE SENDADIANO, for the payment of all overtime hours at one and one half her regular rate of pay due her for the hours worked by her for which she has not been properly compensated, liquidated damages, reasonable attorney's fees and costs of suit, and for all proper relief including prejudgment interest under the Fair Labor Standards Act 29 U.S.C. § 216(b) *et seq.*

DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury on all of the issues so triable by law.

Respectfully submitted,

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By _____ /s/ Christopher J. Rush
Christopher J. Rush (FBN 621706)